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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,602	08/21/2001	Kevin J. Reardon	FIS920010165US1 (14775)	6766

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EXAMINER

BOYCE, ANDRE D

ART UNIT PAPER NUMBER

3623

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/933,602	<b>Applicant(s)</b> REARDON, KEVIN J.	
	<b>Examiner</b> Andre Boyce	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/21/01</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-13 have been examined.

#### ***Drawings***

2. The drawings are objected to because Applicant includes two "Figure 6(b)" and is missing a Figure 6(c).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "110" in Figure 8.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claims 2-6, 8-10, 12, and 13 are objected to because of the following informalities:

Claims 2, 4, and 12 recite "either or both" in lines 3, 2, and 4, respectively. This language is slightly unclear and the Examiner suggests --either or both of-- as a modification. Appropriate correction is required.

Claims 2 and 12 recite "equal or to or above" in lines 4 and 4/5, respectively. This language seems grammatically incorrect and the Examiner suggests --equal to or above-- as a replacement. Claims 3-6 are also objected to, since they depend from claim 2. Appropriate correction is required.

Claims 8 and 13 recite "ASP trend data" in lines 15 and 16, respectively. The acronym "ASP" must be defined. Claims 9 and 10 are also objected to, since they depend from claim 8. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 8-10 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8 and 13 recite the limitation "that time interval" in lines 20 and 21, respectively. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-7, 11, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kalyan et al (USPN 6,826,538).

As per claim 1, Kalyan et al disclose a method for analyzing a business that provides deliverable end-user products to consumers (i.e., value management pricing, column 2, lines 46-48), said end-user products including components wherein each deliverable product and each component have a perceivable cost and consumer value (i.e., value management, wherein prices of components that make up the product, column 2, lines 61-63), said method comprising the steps of: a) obtaining Average Sales Price (ASP) trend data for a deliverable end-user product provided by said business and tracking changes of said trend data over a period of time, said period divided into one or more time intervals (i.e., pricing process in terms of input, including price offered for each standard product for each time horizon of interest, column 7, lines 54-60); b) obtaining ASP trend data for a component used in said deliverable end-user product and tracking changes of said trend data for said

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component over said period of time (i.e., each component has a determined value/price, used to calculate the value/price of the product, column 3, lines 51-57, wherein output includes the value of each critical component for each time horizon, column 7, lines 60-63 and figure 2), c) generating a data structure including elements for characterizing trend data as meeting certain performance criteria (i.e., value of each critical component for each time horizon, column 7, lines 60-63 and figure 2); d) mapping said trend changes for each period to said elements in said data structure (i.e., component values, known as minimum acceptable values (MAV), vary as a function of supply material for a particular horizon, column 8, lines 41-42 and figure 4); and, e) performing analysis of said elements for a component and deliverable product in each time interval (i.e., component values used to price non-standard products based on supply and demand, column 7, lines 1-3), said elements indicating potential corrective action with respect to a value or cost for said component or deliverable product (i.e., calculated components being the basis of a variety of pricing decisions, including oversupply, column 7, lines 13-17).

As per claim 2, Kalyan et al disclose said data structure includes a matrix for characterizing relationships between ASP trends of deliverables and ASP trends of components (i.e., component values, known as minimum acceptable values (MAV), vary as a function of supply material for a particular horizon, column 8, lines 41-42 and figure 4) (i.e., component values used to price non-standard products based on supply and demand, column 7, lines 1-3), one or more

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elements of said matrix characterizing either or both said deliverable or component ASP trends as being equal to or above a base level between successive time intervals (i.e., component that has a component value equal to or above 0, column 7, lines 13-17).

As per claim 3, Kalyan et al disclose said base level is zero, said one or more elements characterizing said trends as being equal to or above said base level thereby defining a stability sector (i.e., component that has a component value equal to 0 indicates an oversupply of the component or lack of demand, wherein values above 0 indicate a level of demand for the component, thus defining a minimum acceptable value for each component, column 7, lines 13-27).

As per claim 4, Kalyan et al disclose one or more elements of said matrix characterizes either or both said deliverable or component ASP trends as being below a base level while remaining flat, increasing or decreasing between successive time intervals (i.e., components with a 0 component value indicates an oversupply of the component or lack of demand, wherein if all components have 0 values, then there are no critical components, column 7, lines 13-19).

As per claim 5, Kalyan et al disclose elements of said matrix provide an estimation of profit potential for a business operating at an indicated time interval in said stability sector by managing the cost or value for that deliverable and component (i.e., MAV curve can be graphed as a function of supply of a critical component, wherein the area under the curve is the expected revenue from the available supply of the component, column 8, lines 41-46).

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As per claim 6, Kalyan et al disclose said step e) of performing an analysis includes the steps of: improving a value of the deliverable and identifying components that assist in said improving (i.e., calculating component values for various input values, including prices and demand probabilities, column 6, lines 33-48); and maintaining the value of said deliverable in said stability sector pending improvement of said value (i.e., maintaining prices until component values rise above MAV, thus designating those components as critical components, column 7, lines 14-21).

As per claim 7, Kalyan et al disclose repeating step b) though step e) utilizing a different component, said analysis revealing which component drives value and what customers perceive as value from the deliverable (i.e., method moves to the next component to calculate a new component value, column 6, lines 13-16).

Claims 11 and 12 are rejected based upon the rejection of claims 1 and 2, respectively, since they are the program storage device readable by a machine claims, corresponding to the method claims.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



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9. Claims 8-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalyan et al (USPN 6,826,538), in view of Fields et al (USPN 5,459,656).

As per claim 8, Kalyan et al disclose method for assessing in real-time a business plan for a business that provides deliverable end-user products to consumers (i.e., value management pricing, beneficial in product design, column 2, lines 46-48 and 52-55), said end-user products including components wherein each deliverable product and each component have a perceivable cost and consumer value (i.e., value management, wherein prices of components that make up the product, column 2, lines 61-63), said method comprising the steps of a) providing a business plan associated with the selling of a deliverable product in the market, said plan organized as a series of successive time intervals, with each said interval indicating hypothetical movement of profitability of said deliverable product (i.e., linear price-demand curve for a product, wherein the curve can be used to determine a total potential revenue that could be realized, column 10, lines 28-33); b) generating a data structure including elements for characterizing trend data as meeting certain performance criteria (i.e., value of each critical component for each time horizon, column 7, lines 60-63 and figure 2), each said element indicating one or more corrective actions that may be performed with respect to a value or cost for a deliverable or one of its components (i.e., calculated components being the basis of a variety of pricing decisions, including oversupply, column 7, lines 13-17); and c) obtaining actual ASP trend data for said deliverable and component at a current

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sampling interval (i.e., analyzing demand from a history database in order to obtain a relationship between price charged and demand, column 13, lines 48-51).

Kalyan et al does not explicitly disclose c) mapping said actual ASP trend data to a corresponding element in said data structure; d) comparing said mapped element with a hypothetical movement defined for the deliverable product and component according to said business plan at that time interval; and e) making corrective changes with respect to a value or cost for said component or deliverable according to the comparison. Fields discloses c) mapping said actual data to a corresponding element in said data structure (i.e., actual demand mapped against threshold limits, column 1, lines 3-5); d) comparing said mapped element with a hypothetical movement defined for the deliverable product and component according to said business plan at that time interval (i.e., monitoring actual demand against projected demand, column 10, lines 50-53); and e) making corrective changes with respect to a value or cost for said component or deliverable according to the comparison (i.e., revising near future-intervals to reflect detected deviations, wherein the percent differential is compared to threshold limits in order to determine the value to be projected over the remaining intervals, column 11, lines 1-25). Both Kalyan et al and Fields et al are concerned with analyzing supply and demand of products, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include mapping said actual ASP trend data to a corresponding element in said data structure; comparing said mapped element with a hypothetical movement and making corrective changes in Kalyan et al, as seen in

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Fields et al, in order to effectively detect variations between actual and projected values (see Fields et al, column 10, line 53), thus making the Kalyan et al pricing method more robust.

As per claim 9, Kalyan et al disclose said step c) further comprises the step of defining for said business plan a hypothetical Average Sales Price (ASP) trend for each said deliverable product (i.e., pricing process in terms of input, including price offered for each standard product for each time horizon of interest, column 7, lines 54-60) and a component in each successive time interval (i.e., each component has a determined value/price, used to calculate the value/price of the product, column 3, lines 51-57, wherein output includes the value of each critical component for each time horizon, column 7, lines 60-63 and figure 2).

Kalyan et al does not explicitly disclose said step d) further includes comparing said actual ASP trend data with said hypothetical Average Sales Price (ASP) trend at said time interval. Fields discloses monitoring actual demand against projected demand, column 10, lines 50-53. Both Kalyan et al and Fields et al are concerned with analyzing supply and demand of products, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include comparing said actual trend data with said hypothetical trend data at said time interval in Kalyan et al, as seen in Fields et al, in order to effectively detect variations between actual and projected values (see Fields et al, column 10, line 53), thus making the Kalyan et al pricing method more robust.

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As per claim 10, Kalyan et al disclose said step c) of obtaining actual data is performed when valid ASP trend data is available (i.e., demand from a history database, column 13, line 51).

Claim 13 is rejected based upon the rejection of claim 8, since it is the program storage device readable by a machine claims, corresponding to the method claims.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Ozono et al (US 2002/0013720) disclose a business position display system.

-Boyd et al (US 2002/0123930) disclose a promotion pricing system.

-Lopez et al (US 2005/0102189) disclose generating transaction price data relating to electronic commerce.

-Phillips et al (US 2002/0116348) disclose a dynamic pricing system.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571) 272-6726. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

adb  
December 9, 2005



ANDREW ROWE  
PATENT EXAMINER  
ART UNIT 3623